

Put Case 2880;

to Case 2917

0/6<sup>2</sup> May 12, 2011

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**BEFORE THE ARIZONA BOARD OF  
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

In the Matter of:	)	Case No. 2880
	)	
MARK GOLDSTEIN, D.O.	)	<b>INTERIM FINDINGS OF FACT,</b>
	)	<b>CONCLUSIONS OF LAW AND</b>
Holder of License No. 1572 for the	)	<b>STIPULATED CONSENT ORDER</b>
Practice of Osteopathic Medicine and	)	
<u>Surgery in the State of Arizona.</u>	)	

**STIPULATION**

By mutual agreement and understanding, the Arizona Board of Osteopathic Examiners (hereafter "Board") and Mark Goldstein, D.O. (hereinafter "Respondent"), the parties hereto agree to the following interim disposition to this matter.

1. Respondent acknowledges that he has read this Stipulation and the attached Consent Order; and, Respondent is aware of and understands the content of these documents.

2. Respondent understands that by entering into this Stipulation, he voluntarily relinquishes any rights to a hearing on the matters alleged as grounds for Board action or to seek judicial review of the stipulated consent order in state or federal court.

3. Respondent understands that this Stipulation and Consent Order will not become effective unless approved by the Board and signed by its Executive Director.

4. Respondent further understands that this Stipulation and Consent Order, once approved and signed, shall constitute a public record that will be disseminated as a formal action of the Board.

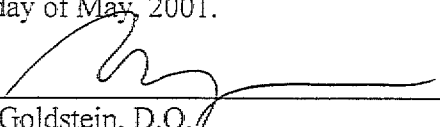
5. Respondent understands the statement of facts and conclusions of law contained in

the stipulated Consent Order.

6. All admissions made by Respondent are solely for interim disposition of this matter pending any administrative proceedings involving the Board, Respondent and the State of Arizona.

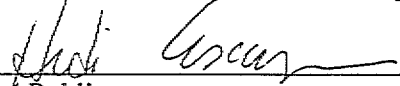
7. Respondent acknowledges and agrees that upon signing and returning this document (or a copy thereof) to the Board's Executive Director, he may not later revoke or amend this Stipulation or any part of the Consent Order, although said Stipulation has not yet been accepted by the Board and issued by its Executive Director, without first obtaining Board approval.

REVIEWED AND ACCEPTED this 25 day of May, 2001.

  
Mark Goldstein, D.O.

STATE OF ARIZONA       )  
                                      ) ss  
County of Maricopa       )

The above-named individual acknowledged this instrument before me this 25 day of May, 2001.

  
Notary Public

My Commission expires:

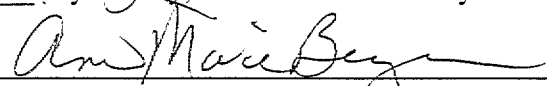
5-27-2001



REVIEWED AND APPROVED as to form by counsel for Respondent on this \_\_\_\_ day of May, 2001.

\_\_\_\_\_  
A. Craig Blakey, II

REVIEWED AND SIGNED this 6th day of May, 2001 for the Board by:

  
Ann Marie Berger, Executive Director  
Arizona Board of Osteopathic Examiners in  
Medicine and Surgery

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS  
IN MEDICINE AND SURGERY

In the Matter of:	)	Case No. 2880
	)	
MARK GOLDSTEIN, D.O.	)	<b>INTERIM CONSENT ORDER</b>
	)	
Holder of License No. 1572 for the	)	
Practice of Osteopathic Medicine and	)	
<u>Surgery in the State of Arizona.</u>	)	

**INTRODUCTION**

The Board of Osteopathic Examiners in Medicine and Surgery (hereafter "Board") investigated allegations of unprofessional conduct in Case No. 2880. Pursuant to its statutory authority at A.R.S. § 32-1855(C), the Board held an telephone conference call Board Meeting on April 13, 2001 and voted to summarily suspend Mark Goldstein, D.O. (hereinafter "Respondent") license pending a formal administrative hearing. On or about May 12, 2001 the Board held a Hearing regarding Respondent's request to enter into a Stipulated Consent Order to reinstate his medical license pending further investigation and evaluation regarding allegations of medical competency and impairment. During the course of that proceeding Respondent was present and represented by legal counsel, A. Craig Blakey II.

**FINDINGS OF FACT**

1. The Arizona Board of Osteopathic Examiners in Medicine and Surgery (hereafter "Board") is empowered, pursuant to A.R.S. §§ 32-1800 et seq. to regulate the licensing and practice of osteopathic medicine in Arizona.

2. Respondent is a licensee of the Board and holds License No. 1572 for the practice

of osteopathic medicine in Arizona.

3. The Board obtained information that Respondent may be medically and/or psychologically unable to safely and skillfully engage in the practice of medicine and may have committed one or more acts of unprofessional conduct as defined in A.R.S. § 32-1854.

4. On or between 1987 through 1995, Respondent had several disciplinary actions taken against his license for alcohol and substance abuse.

5. On or about March 31, 2001 while reviewing the allegation of unethical behavior and harassment of a patient in Case No. 2880, the Board was concerned that while engaging in the practice of medicine Respondent may have been impaired.

6. On April 11, 2001 the Board's Executive Director issued an Order for Random Urine Drug Screens for Respondent. The Order required Respondent to be tested within sixty minutes of the request. Respondent was required to provide a biological fluid sample on April 11, 2001. Respondent appeared at an appropriate location but the sample provided was "cold" and did not register on the temperature tape on the collection bottle. Respondent was required to provide another sample and did not provide that sample. Respondent was then required to provide a sample within sixty minutes at a separate location but failed to provide that sample.

7. On April 12 and 13, 2001 Respondent was ordered to provide a biological fluid sample within sixty minutes but refused to provide that sample.

8. According to the American Osteopathic Academy of Addiction Medicine a "cold" or "missed" urine drug screen is considered "positive" for either drugs or alcohol.

9. In public session, the Board voted on April 13, 2001 that Respondent was

medically and/or psychologically unable to engage in the practice of medicine and was an immediate threat to the health, safety and welfare of the public.

10. On May 12, 2001 based upon Respondent's testimony and documentary evidence submitted to the Board, the Board agreed to enter an interim Board Order on May 12, 2001 for probation with terms and conditions, pending the outcome of this investigation and evaluations of impairment and/or health related problems that might hinder Respondent's ability to practice medicine.

### **CONCLUSIONS OF LAW**

1. Pursuant to Arizona Revised Statutes § 32-1800, et seq., the Arizona Board of Osteopathic Examiners in Medicine and Surgery has subject matter and personal jurisdiction in this matter.

2. Pursuant to Arizona Revised Statutes §§ 32-1803 and § 41-1092.07, enter a Stipulated Consent Order for Probation of a license.

3. The Respondent engaged in unprofessional conduct as defined in A.R.S. § 32-1854, by violating state statutes and regulations:

- (26) Violating a formal order, probation or stipulation issued by the Board under this chapter.

### **ORDER**

Pursuant to the authority vested in the Board, **IT IS HEREBY AGREED AND ORDERED THAT:**

1. Respondent's Board License Number 1572 for the practice of osteopathic medicine and surgery in the State of Arizona shall be reinstated and placed on **PROBATION** effective May

12, 2001, pending the completion of this investigation and completion of evaluations and/or examination to be performed by a physician, chosen by the Board.

2. From the date of this Order, Respondent shall obtain or continue psychiatric or psychological treatment by a therapist(s) who is either a licensed psychiatrist and/or psychologist and is selected by Respondent and approved by the Board.

3. Respondent shall abstain completely from the consumption of alcoholic beverages; and, Respondent shall not consume illicit drugs or take any controlled substances (i.e., prescription only drugs), unless such medication is prescribed for him by his treating physician. Respondent shall maintain a monthly log (for the duration of probation) of all prescription only drugs taken by him and such log shall include the following information:

- (a) the name of the medication;
- (b) name of prescribing physician;
- (c) reason for the medication.

At the first of each month, Respondent shall report by letter to the Board whether or not he is taking any prescription only medication and, if so, a copy of his log reflecting the above information.

4. Respondent shall also, as part of his probation: (A) submit to and cooperate in any independent medical or psychological evaluation that is ordered by the Board for Respondent and conducted by the Board's designated physician and/or psychologist which shall be paid for by Respondent; (B) appear before the Board, upon receipt of a request by written or telephonic notification from the Board's executive director which shall be given at least five (5) days prior to the Board meeting; and, (C) submit to random biological testing, including blood,

and promptly provide (i.e., within sixty (60) minutes of notification) required biological specimens for testing and said testing shall be done at the Respondent's expense.

5. Respondent shall reimburse the Board for all expenses associated with the investigation, hearing and continued monitoring of this matter.

6. Respondent shall continue to meet all licensing requirements such as continuing medical education and renewal requirements including applicable fees pursuant to A.R.S. § 32-1825.

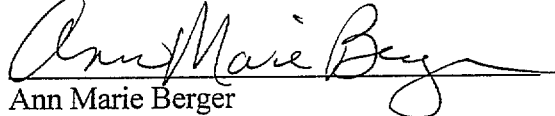
7. Respondent may have his license to practice as an osteopathic physician restricted, suspended or revoked, pursuant to statute, by the Board in the future if:

- (A) The Board finds that Respondent does not have the requisite mental, physical and emotional fitness to safely continue the practice of medicine; or,
- (B) There are new grounds for finding unprofessional conduct concerning Respondent; or,
- (C) Fails to comply fully with the terms and conditions of this Order.

8. Respondent's failure to comply with the requirements of this Order shall constitute unprofessional conduct as defined at A.R.S. § 32-1854(26), as amended, and may be considered as grounds for further disciplinary action (e.g., suspension or revocation of license) in the event that Respondent fails to comply with any of the requirements of this Order.

Executed the 6th day of June, 2001.

ARIZONA BOARD OF OSTEOPATHIC  
EXAMINERS IN MEDICINE AND SURGERY

  
Ann Marie Berger  
Executive Director



Copy mailed by U.S. certified mail  
(return receipt requested) this 6th  
day of June, 2001 to:

Mark Goldstein, D.O.  
4020 N. Scottsdale Rd.  
Scottsdale AZ 85251

Copy mailed this 6th day of  
June, 2001 to:

A. Craig Blakey II  
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7243 N. 16<sup>th</sup> St.  
Phoenix AZ 85020

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Assistant Attorney General  
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Phoenix AZ 85007

Celina Shepherd